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11 Attorneys for Plaintiff
12 U.S. EQUAL EMPLOYMENT
13 OPPORTUNITY COMMISSION

14 **UNITED STATES DISTRICT COURT**
15 **FOR THE NORTHERN MARIANAS ISLANDS**

16 U.S. EQUAL EMPLOYMENT
17 OPPORTUNITY COMMISSION,

18 Plaintiff,

19 vs.

20 YUN'S CORPORATION,
21 TOWNHOUSE INCORPORATED,
22 and DOES 1-10, Inclusive
23 Defendant(s).

Case No.: CV-07-0031

PLAINTIFF'S CASE MANAGEMENT
CONFERENCE STATEMENT AND
PROPOSED SCHEDULING ORDER;
PROOF OF SERVICE

Date: April 14, 2009

Time: 9:00 a.m.

Hon. Alex R. Munson

24 The Plaintiff, United States Equal Employment Opportunity Commission
25 ("Commission") file its Case Management Conference Statement ("CMCS") in
26 this matter.
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1 The Commission concurs with Defendant assessment in its CMC filed April
2 4, 2008, (Docket No. 8) that this matter follow a Standard Track in line with L.R.
3 162CJ(c)(2)(b). The Commission anticipates taking no more than 10 depositions.
4
5 A jury trial has been requested. It is anticipated that the trial will last not more
6 than 5 days. The Commission reserves the right to request additional depositions
7
8 should additional class members be identified during discovery.

9 1. Factual Information:

10 a. This case is an action under Title VII of the Civil Rights Act of
11 1964 and Title I of the Civil Rights Act of 1991 in which Plaintiff United States
12 Equal Employment Opportunity Commission ("Commission") alleges Defendant
13 Yun's Corporation and Townhouse Incorporated ("Defendants") since at least
14 February 19, 2006, Defendants engaged in a practice of unlawful employment
15 discrimination (pregnancy) at its Saipan, Northern Mariana Islands, facilities in
16 violation of Title VII of the Civil Rights Act of 1964 as amended, the Pregnancy
17 Discrimination Act of 1978, 42 U.S.C. §2000e(k) and Title I of the Civil Rights
18 Act of 1991. The Commission alleges that Defendants discriminated against
19 Suzette Divina-Cruz and a class of similarly situated women who were
20 discriminated against due to their sex (pregnancy).
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1 b. Plaintiff, United States Equal Employment Opportunity
2 Commission "EEOC" seeks compensatory damages, back pay, front pay, benefits,
3 punitive damages and corresponding prejudgment interest amount on the behalf of
4 Suzette Divina Cruz, Sany Ann Gentile and a unidentified class of similarly
5 situated females. Specifically, the Commission seeks back pay for Ms. Cruz and
6 Gentile in the amount (not including interest) of approximately \$11,312.00 and
7 \$15,804.00 respectively. In addition, compensatory damages are sought in the
8 amount of \$50,000 each.

9 c. The Commission further is seeking permanent injunctive relief
10 in the form of a Consent Decree and other relief the Court deems appropriate. The
11 injunction seeks to have Defendants refrain for engaging in any form of
12 employment discrimination and to have Defendants prevent and end any unlawful
13 equal employment practices. Such an injunction can be carried out through posting
14 of equal employment opportunity laws, a policy prohibiting pregnancy
15 discrimination and retaliation and discrimination training for all employees with
16 special emphasis on management, reports requirements by Defendants and
17 inspection authority for the Commission regarding Defendants employment
18 practices, including responses to any allegations of pregnancy discrimination and
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1 retaliation. To account for the costs of such an injunction, if any, the Commission
2 seeks to have Defendants set aside funds to effectuate the foregoing.
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5 2. CMC Statement:

6 a. All parties have been served. However, the Commission
7 requests the right to add additional class members should they be found.
8

9 b. Jurisdiction and venue lie with this Court.

10 c. The Commission intends to file a motion for summary
11 judgment and partial summary judgment.
12

13 d. There is no need for special procedures, including consolidation
14 or relation of cases at this time.
15

16 e. The Commission believes that since travel to foreign countries
17 may be required by both Parties to take depositions and due to the fact that the
18 Commission's offices are located in Los Angeles, California and Honolulu, Hawaii
19 additional time for discovery may be required. However, currently the
20 Commission is not opposed to a slight modification to the standard twelve month
21 litigation track.
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24 f. The Commission has met all its pre-litigation statutory
25 requirements in this matter and specifically disputes the Defendants assertion that
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1 the Commission “did not engage in statutorily required conciliation prior to filing
2 suit in this matter.” (See Defendants CMCS, page 2, ¶f). In any event, the proper
3 remedy is a stay of proceeding and re-conciliation. See, e.g., EEOC v. Golden
4 Lender Financial Grp, 2000 U.S. Dist. LEXIS 4750, *17-18 (S.D.N.Y. Apr. 13,
5 2000) (30 day stay); EEOC v. Pacific Maritime Ass'n, 188 F.R.D. 379, 381 (D. Or.
6 1999) (90 day stay); EEOC v. Klingler Electric Corp., 636 F.2d 104, 106 (5th Cir.
7 1981) (remanding for stay); EEOC v. Pet, Inc., Funsten Nut Div., 612 F.2d 1001,
8 1002-1003 (5th Cir. 1980) (remanding for stay). The Commission is not opposed
9 to a stay, however, it is doubtful that any further conciliation would be fruitful
10 given Defendants settlement position.
11

12 g. Finally, the Commission has submitted a Proposed Stipulated
13 Scheduling Order to Defendants. The Commission requests that absent the Parties
14 agreement, that the Court enter a Order consistent with the timetable outlined
15 therein. The Proposed Scheduling Order is attached as Exhibit A.
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22 Respectfully Submitted By:

23 U.S. Equal Employment Opportunity
24 Commission
25 Anna Y. Park, Regional Attorney
26 Derek Li, Supervisory Trial Attorney
27 Gregory L. McClinton, Trial Attorney
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By: _____/s/_____
Gregory L. McClinton
Senior Trial Attorney
Attorneys for Plaintiff

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EXHIBIT "A"

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14 Richard W. Pierce Esq. SBN 001214
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17 Saipan, MP 96950
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20 E-Mail: rwpierce@vzpacifica.net

21 **UNITED STATES DISTRICT COURT**
22 **FOR THE NORTHERN MARIANAS ISLANDS**

23 U.S. EQUAL EMPLOYMENT
24 OPPORTUNITY COMMISSION,

25 Plaintiff,

26 vs.

27 YUN'S CORPORATION,
28 TOWNHOUSE INCORPORATED,
and DOES 1-10, Inclusive
Defendant(s).

) Case No.: CV-07-0031

) [PROPOSED] SCHEDULING ORDER
) AND STIPULATED DISCOVERY
) PLAN

) Trial Date: TBA

) Time: TBA

) Courtroom:

) Hon. Alex R. Munson

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1 The Parties hereto, by and through their undersigned counsel, having met
2 and conferred as required by Federal Rule of Civil Procedure 26(f) and Local
3 Rules 16-1 and 16-2, do hereby stipulate and agree that the following will
4 constitute the discovery plan and scheduling order in this matter, pursuant to Local
5 Rule 16-1 and Federal Rule of Civil Procedure 26(f).
6

7
8 Local Rule 16-1(c)(4) Information:

9 1. The nature of the case is as follows:

10 This case is an action under Title VII of the Civil Rights Act of 1964 and
11 Title I of the Civil Rights Act of 1991 in which Plaintiff United States Equal
12 Employment Opportunity Commission ("Commission") alleges Defendant Yun's
13 Corporation and Townhouse Incorporated ("Defendants") since at least February
14 19, 2006, Defendant Employers engaged in a practice of unlawful employment
15 discrimination (pregnancy) at its Saipan, Northern Mariana Islands, facilities in
16 violation of Title VII of the Civil Rights Act of 1964 as amended, the Pregnancy
17 Discrimination Act of 1978, 42 U.S.C. §2000e(k) and Title I of the Civil Rights
18 Act of 1991. The Commission alleges that Defendants discriminated against
19 Suzette Divina-Cruz and a class of similarly situated women who were
20 discriminated against due to their sex (pregnancy). Defendant has denied the
21 Commission's allegations of discrimination.
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1 2. The posture of the case is as follows:

2 a. There are no motions currently on file;

3 b. No motions are currently resolved;

4 c. No discovery has been taken;

5 d. Defendants Yuns Corporation and Townhouse Incorporated
6
7 filed the Answer of Defendants on March 24, 2008.
8

9 3. All motions to add parties and claims shall be filed on or before June
10 23, 2008.
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12 4. All motions to amend pleadings shall be filed on or before June 23,
13 2008.
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15 5. All discovery shall be served by October 21, 2008.

16 6. All discovery motions shall be filed so as to be heard on or before
17 December 12, 2008. The following discovery documents and proofs of service
18 thereof shall not be filed with the Clerk until there is a motion or proceeding in
19 which the document or proof of service is in issue and then only that part of the
20 document which is in issue shall be filed with the Court:
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23 a. Transcripts of depositions upon oral examination;

24 b. Transcripts of deposition upon written questions;

25 c. Interrogatories;

26 d. Answers or objections to interrogatories;

27 e. Requests for production of documents or to inspect tangible
28 things;

- f. Requests for admissions; and
- g. Responses of objections to requests for admission.

7. All motions or stipulations to extend any date set by this discovery plan must be filed with the court no later than 20 days before the close of discovery. The motions or stipulations will be filed not later than November 10, 2008.

8. Disclosure of Experts: Disclosure of expert witnesses will be made pursuant to FRCP 26(a)(2) no later than 60 days before the discovery cutoff date, or September 21, 2008, whichever is later. Rebuttal experts will be disclosed no later than 30 days after the initial disclosure of experts, or October 22, 2008, whichever is later.

9. The anticipated discovery motions are: No discovery motions are anticipated at this time.

10. The anticipated dispositive motions are:

The Commission anticipates filing a motion for summary judgment.

Defendants anticipate filing a motion for summary judgment.

11. All dispositive motions shall be filed on or before January 16, 2009 and heard before February 27, 2009. Said motions shall be filed in accordance with Local Rule 7.1.

1 12. It is too early in the litigation process to assess the prospects for
2 settlement. The Commission is open to early mediation. A Settlement Conference
3 shall be held on March 13, 2009 at 9:00 a.m.
4

5 13. The Preliminary Pretrial Conference shall be held on the March 30,
6 2009. The jointly-prepared final pretrial order, prepared pursuant to Local Rule
7 16.2CJe.9 shall be filed with the Court by March 30, 2009.
8

9 14. A final pretrial conference will be held on April 6, 2008, at 9:00 a.m.

10 15. The trial shall be held on the May 5, 2008
11

12 16. The trial is a jury trial.

13 17. It is anticipated that it will take no more than fourteen (14) court days
14 to try this case.
15

16 18. The names of counsel on this case are:

17 Attorneys for the Plaintiff United States Equal Employment
18 Opportunity Commission: Anna Y. Park, Derek Li and Gregory L. McClinton.
19

20 Attorneys for Defendants Yun's Corporation and Townhouse
21 Incorporated: Richard W. Pierce, Esquire.
22

23 19. The parties present the following suggestions for shortening trial:

24 20. The following issues will also affect the status or management of the
25 case:
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1 a. Because the Commission's offices are located in Honolulu,
2 Hawaii and Los Angeles, California, the parties agree and stipulate that mail,
3 overnight mail, electronic mail (PDF Document with copy of signature with
4 original by mail) and facsimile can be used as a form of service. If service is by
5 electronic mail, the parties shall convert such document to PDF file with a copy of
6 original with signatures by mail.
7

8
9 b. The parties further agree that all dispositive motions shall be
10 accompanied by an electronic copy (CD Rom) which shall contain a copy of said
11 motion or such motion can be provided by electronic mail in the MS Word format.
12

13 21. The parties do not contemplate any order pursuant to FRCP 16(b), or
14 16(c) or 26(c) at this time.
15

16 **APPROVED AS TO FORM AND CONTENT:**
17

18 _____
19 Anna Y. Park
20 Gregory L. McClinton
21 Derek Li
Attorneys for Plaintiff

Richard W. Pierce, Esquire
Attorney for Defendants

Attorney for Defendants

22 **IT IS SO ORDERED:**
23

24 Date: _____

By: _____
HONORABLE ALEX R. MUNSON
U.S. District Court Judge

1
2 PROOF OF SERVICE VIA ELECTRONIC FILING SYSTEM

3 I am, and was at the time the herein mentioned delivery took place, a citizen
4
5 of the United States, over the age of eighteen (18) years and not a party to the
6 above-entitled cause.

7
8 I am employed in the Legal Unit of the Los Angeles District Office of the
9 United States Equal Employment Opportunity Commission, Honolulu Local
10 Office.

11
12 My business address is Equal Employment Opportunity Commission, 300
13 Ala Moana Boulevard, Room 7-127, Honolulu, Hawaii 96850.

14
15 On the date that this declaration was executed, as shown below, I served the
16 foregoing PLAINTIFF'S CASE MANAGEMENT CONFERENCE STATEMENT
17 AND PROPOSED SCHEDULING ORDER via e-mail/FAX and via regular mail
18 with postage therein fully prepaid, at Honolulu, State of Hawaii, in envelopes
19 addressed as follows:
20

21
22 Richard W. Pierce
23 Attorney at Law
24 P. O. Box 503514
25 Saipan, MP 96950
26 rwpierce@Saipan.com
27
28

1 I declare under penalty of perjury that the foregoing is true and correct.

2
3
4 Executed on April 8, 2008 at Honolulu, Hawaii.

5
6 _____
7 Wilma DeGuzman
8 Legal Technician

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